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VIA ECF

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February 25, 2021

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Hon. Mary Kay Vyskocil
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: U.S. District Court for the Southern District of New York,
Orlando, et al. v. Nxt-ID, Inc., et al., Case No. 20 Civ. 01604

Dear Judge Vyskocil:

We write on behalf of Plaintiffs in the above-noted action regarding the oral arguments scheduled by the Court in its Order of February 23, 2021 (Dkt. No. 119). All parties have conferred and consent to the requests and inquires herein.

First, we respectfully request an adjournment of the recently scheduled oral arguments from March 11, 2021 (as stated in the Order), to March 18, 2021. Plaintiffs' counsel are not available on March 11 due to a previously scheduled appearance in another matter, but counsel for all parties are available on March 18. All parties consent to this request, and no previous request for an adjournment of this date has been made.

Second, to ensure all counsel are appropriately prepared, the parties wish to confirm the motions on which the Court wishes to hear argument. The February 23 Order indicates the Court will hear "oral argument on the pending motions to dismiss," and grants requests for argument made in connection with (1) Defendant CrowdOut Capital, LLC's motion to dismiss (Dkt. Nos. 40 (motion) & 43 (request for argument)); and (2) Defendant Garmin International Inc.'s motion to dismiss (Dkt. Nos. 45 (motion) & 52 (request for argument)). Plaintiffs' motion to dismiss Defendant Nxt-ID's amended counterclaims is also pending (Dkt. Nos. 88 (motion) & 91 (request for argument)), as is Defendant Nxt-ID's motion for summary judgment (Dkt. No. 105 (motion; no request for argument made).) The parties' understanding of the February 23 Order is that only the CrowdOut and Garmin motions to dismiss are scheduled for oral argument and that oral argument on the other pending motions will not be heard. If the parties' understanding is incorrect, the parties hereby respectfully request clarification from the Court.

Third, and finally, pursuant to this Court's COVID-19 protocols, the parties will dial in to this Court's dedicated conference line at the appropriate time, but are willing to set up an alternate line or other mode of connection if the Court requests or prefers.

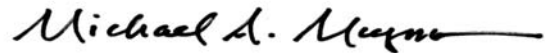
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We thank the Court for its time and attention to this matter.


Sincerely,



Michael A. Mugmon

The request to adjourn the oral argument, from March 11, 2021 to March 18, 2021, is GRANTED. The Court will hear oral argument on the motions to dismiss of Defendants CrowdOut and Garmin on March 18, 2021 at 9:30 AM. The oral argument will be held by telephone. To join, dial 888-278-0296 and enter Access Code 5195844.

Date: Feb. 26, 2021
New York, New York


Mary Kay Vyskocil
United States District Judge